

GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

MEMORANDUM

TO: Members of the Bar
FROM: Glenn A. Grant, J.A.D., Acting Administrative Director
SUBJECT: 2018 Pro Bono Exemption Categories
DATE: January 8, 2018



In Madden v. Delran, 126 N.J. 591 (1992), the Supreme Court affirmed the bar's duty to represent indigent defendants without pay where the Legislature has made no provision for the Public Defender to represent defendants who are entitled to counsel. Attorneys may be exempt from pro bono assignments for various reasons which are categorized by code.

The 2018 exemption codes for pro bono assignments are listed on the reverse side and may also be found at <http://www.njcourts.gov/attorneys/assets/probono/memotothebaronexemptions.pdf>. If you qualify for any of the exemptions, please select the exemption code number in the appropriate location in the pro bono section of the online annual registration form.

The online form also asks that you identify your "assignment county" for pro bono assignments. Your assignment county must be either (1) the New Jersey county where you reside; (2) the New Jersey county where you serve as corporate counsel; or (3) the New Jersey county where you or your firm has an office. You should select "out of state" or "out of country" if either applies. Attorneys using the paper registration form who qualify for an exemption should write the exemption code number in the appropriate location in the pro bono section of the form. Please note that different sections of the form serve different purposes and an exemption in one section of the form does not necessarily entitle you to an exemption in another. Those attorneys must also identify their "assignment county", or select "out of state" or "out of country", on the appropriate location on the paper form.

Information about the Judiciary's pro bono counsel assignment program, along with training materials to assist attorneys receiving domestic violence contempt, parole revocation, and municipal court appeal assignments, may be found at <http://www.njcourts.gov/attorneys/probono.html>. If you have questions you may direct them to (609) 815-2942 or probono.mailbox@njcourts.gov.

Change in Exemption Status

Attorneys registering online may make a change in exemption status through the Attorney On-line Registration and Payment Center at <http://www.njcourts.gov/attorneys/attreg.html>. Attorneys who registered through paper must immediately notify the office of the Assignment Judge in the assignment county of any exemption status changes during the course of the year. If "out of state" is indicated as your assignment county, the request for a change in exemption status should be forwarded, in writing, to the Municipal Court Services Division, Administrative Office of the Courts, P.O. Box 986, Trenton, N.J. 08625.

**Special Instructions to Attorneys who Practice Law on a Per Diem Basis
or through a Temporary Employment Agency**

The Supreme Court has determined that attorneys who practice law in New Jersey on a per diem basis or through a temporary employment agency are not eligible to claim an exemption from pro bono assignments. The Court has further determined that these attorneys are eligible to receive assignments only during the time that they are practicing law. Therefore, if an attorney receives an assignment when not actively practicing law, the attorney must immediately contact the office of the Assignment Judge of the assignment county.

2018 Pro Bono Exemption Categories

81. Attorneys who work full time for any local, county, State or Federal agency or authority and who, by statute, rule, administrative directive, Executive Order, published Ethics Code or Opinion, are prohibited from the private practice of law, are exempt.
82. All Supreme Court Justices, all Superior Court and Tax Court Judges, all Federal Court Judges, all Workers' Compensation Judges, all Administrative Law Judges, all retired Justices and Judges, all Surrogates and Deputy Surrogates, all Child Support/Domestic Violence Hearing Officers or Juvenile Referees, and all Municipal Court Judges are exempt.
83. All attorneys working full time for the Administrative Office of the Courts or on the staff of any State or Federal Judge or any vicinage of the Superior Court or any Municipal Court, County Clerk, or Surrogate are exempt. Attorneys serving as part-time municipal court directors, administrators, deputy administrators and violations bureau clerks are also exempt.
84. All County and full-time Municipal Prosecutors and Assistant Prosecutors, all attorneys working in the Office of Counsel to the Governor, the Attorney General and Deputy Attorney Generals, the Public Defender and Deputy Public Defenders, full-time Municipal Public Defenders, the Public Advocate and Deputy Public Advocates are exempt. Part-time Municipal Public Defenders and Public Defender Pool Attorneys are not exempt.
85. All attorneys who work full time for criminal law enforcement or investigative agencies, such as but not limited to, police forces, the Federal Bureau of Investigation, County Sheriff, Federal Marshals, Casino Control Commission, or the Internal Revenue Service are exempt.
86. Attorneys who are not currently practicing law, and those who are completely retired, are exempt. Attorneys are considered not practicing law or retired if the following applies: the attorney's employment is not related to the practice of law, the attorney does not have to be an attorney to hold his or her position, the attorney does not review legal documents, the attorney does not render legal assistance or advice on the law, the attorney does not teach law, and the attorney does not serve in the judiciary in any capacity, in any jurisdiction.

Attorneys who are ineligible to practice law in New Jersey under statute, Rule of Court, or court order are also exempt. An attorney who appears pro se or pro hac vice or as the guardian of a party in interest may still claim this exemption if those are the only legal services performed in New Jersey. Attorneys who serve as in-house counsel in New Jersey are not exempt.
87. Attorneys employed full time by a Legal Assistance Organization, as described in R. 1:21-1(e), or by a Legal Aid Society are exempt.
88. Attorneys who certify that they have performed at least twenty-five (25) hours of qualifying pro bono service in New Jersey for a certified pro bono organization or for a pro bono organization approved by the Supreme Court, in the year ending on December 31, 2017, are exempt under this category. See, R. 1:21-11 and 12. A list of certified or approved pro bono organizations may be found at <http://www.judiciary.state.nj.us/supreme/apps/pbos/probonoorganization/Chart>. Additionally, attorneys who satisfy the same twenty-five (25) hour requirement by serving as a court-appointed attorney-trustee pursuant to R. 1:20-19 or who volunteer to handle Termination of Parental Rights Appeals as compensated Public Defender Pool Attorneys are also exempt under this category.
89. Attorneys who are members of a District Ethics Committee, a Fee Arbitration Committee, the Disciplinary Review Board, the Disciplinary Oversight Committee, the Board of Trustees for the New Jersey Lawyers' Fund for Client Protection, the Supreme Court Committee on the Unauthorized Practice of Law, the Supreme Court Committee on Attorney Advertising, the Advisory Committee on Professional Ethics, the Committee on Character or the Advisory Committee on Judicial Conduct and attorneys who are employed as peer counselors for the Judge Assistance Program are exempt.
90. Attorneys who practice law out of state and do not practice in New Jersey in the year 2017 are exempt. An attorney who appears pro se or pro hac vice or as the guardian of a party in interest may still claim this exemption if those are the only legal services performed in New Jersey.
91. Attorneys who serve as part-time Municipal Prosecutors are exempt from all criminal and quasi-criminal pro bono cases. However, they may still be assigned civil pro bono cases.